



STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
REAL ESTATE APPRAISER COMMISSION
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243-1166
615-741-1831

April 8, 2013 - Minutes
First Floor Conference Room (1-B), Davy Crockett Tower

The Tennessee Real Estate Appraiser Commission met April 8, 2013 at 9:00 a.m. in Nashville, Tennessee, at the Davy Crockett Tower in the first floor conference room. Chairperson, Norman Hall, called the meeting to order and the following business was transacted.

COMMISSION MEMBERS PRESENT

Norman Hall
Michael Green
Mark Johnstone
Rosemarie Johnson
Nancy Point
Timothy Walton

COMMISSION MEMBERS ABSENT

Jason Covington (resigned 2/26/13)
Dr. Edward A. Baryla
Herbert Phillips

STAFF MEMBERS PRESENT

Nikole Avers, Keeling Baird, Jesse Joseph, Dennis O'Brien

ADOPT AGENDA

Mr. Johnstone made the motion to accept the agenda. It was seconded by Ms. Point. The motion carried unopposed.

Chairman Hall read the public meeting statement into the record which indicated the agenda was posted to the TREAC website on March 18, 2013.

MINUTES

The March 11-12, 2013 minutes were reviewed. Mr. Green made the motion to accept the minutes as written. It was seconded by Ms. Johnson. The motion carried unopposed.

APRIL 2013 EDUCATION COMMITTEE REPORT

Dr. Barylka reviewed the education and presented his recommendations by email to the Real Estate Appraiser Commission, as below. He recommended that the courses and the request for degree equivalency be approved. Ms. Avers read the recommendation into the record. Mr. Johnstone made a motion to accept the recommendation. Mr. Walton seconded the motion. The motion carried unopposed.

Course Provider	Course Number	Course Name	Instructors	Hours	Type	Rec.
Greater TN Chapter of the Appraisal Institute	1639	Raising the Professional Bar in Real Estate Appraising	Andrew McGarry Dustin A. Lewis Bradley R. Carter William 'Ted' Anglyn Joseph B. Woods Jeffrey M. Bowling M. Ralph Griffin Jr. Lisa M. Jenkins Wells Sandra McAllister Winter Jeff Dinkle Daniel M. Fries	7	CE	For
Dennis Badger & Associates, Inc.	1641	Residential Design & Construction	Thomas P. Viet Michael E. Deweese John B. Hoover Dennis Badger	3.5	CE	For
Dennis Badger & Associates, Inc.	1642	ANSI Z765	Thomas P. Viet Michael E. Deweese John B. Hoover Dennis Badger	3.5	CE	For
Allterra Consulting Group, LLC	1643	2013 Keynote/Appraisal Quality	Robert Murphy Jim Park Alfred Pollard Gerald Kifer Danny Wiley Tim Dick Bruce Unangst	7	CE	For
Allterra Consulting Group, LLC	1644	2013 Valuation Visionaries/Appraisal Reform	Jeff Dickstein Richard Borges Larry Disney Jeff Bradford Tony Pistilli Rick Langdon Alan Hummel	7	CE	For
TREES/TAPS	1645	Residential Reporting: Hitting all the Bases	Ron Oslin Vicki Boyd Carlos Carter	7	CE	For
TREES/TAPS	1646	Appraising Green Residences	Ron Oslin Vicki Boyd Carlos Carter	7	CE	For
TREES/TAPS	1647	Residential Appraisal Review	Ron Oslin Vicki Boyd Carlos Carter	7	CE	For

Degree/Diploma Equivalency Requests

Licensee	Degree obtained/submitted	US Equivalent	US Evaluation Service	Rec.
Stephen Miles (TR 4428)	Bachelor's Degree University of Waterloo, Canada	Bachelor's Degree Political Science	Evaluation Services Inc., Chicago.	for

DIRECTOR'S REPORT

Ms. Avers gave a director's report to the Commission, which began with the notification that the administrative office will be moving to the Davy Crockett Tower in May. Ms. Avers updated the members on the budget information and an overview of the number of complaints received in the previous calendar year. She also updated the members on the numbers of licensees, courses and active temporary practice permits.

APPLICATION REVIEW – CHARACTER QUESTION APPLICATION

Ms. Avers also presented the case of William Cullen Stafford, who had applied for a Certified General Real Estate Appraiser license by reciprocity. The candidate had answered 'Yes' to the character question that asked, 'Have you ever been denied an appraiser license or certificate or had an appraiser license or certificate or professional license of any type disciplined in Tennessee or elsewhere?'. Mr. Stafford had submitted supporting documentation to show the consent order in his case had been discharged successfully. Ms. Avers recommended approval of this application. Mr. Walton then made the motion to accept the director's report and the application recommendation. This was seconded by Mr. Green. The motion carried unopposed.

FORMAL HEARINGS

The Commission held one formal hearing in the case of Wesley W. Milstead before Judge Ann Johnson, attended by court reporter Wilma Hutchison. The other attendees were the Appraiser Commission Board members and staff, as mentioned in the beginning of the minutes.

EXPERIENCE INTERVIEWS

Stephen W. Miles made an application to upgrade from a registered trainee to become a Certified Residential real estate appraiser. Mr. Green was the reviewer and made a motion to approve of his experience request. Ms. Johnson seconded the motion. The motion carried unopposed.

Frank E. Hanner, Jr. made an application to upgrade from a registered trainee to become a Certified Residential real estate appraiser. Mr. Walton was the reviewer and made the motion to approve of his experience request. Ms. Point seconded the motion. The motion carried unopposed.

Zachery M. Wilson made an application to upgrade from a registered trainee to become a Certified Residential real estate appraiser. Mr. Johnstone was the reviewer and made the motion to approve of his experience request. Mr. Walton seconded the motion. The motion carried unopposed.

2. 2012020891

This complaint was filed by a consumer/homeowner and alleged unprofessional conduct and misreporting the number of bedrooms in the appraisal report.

Respondent stated in his response that Complainant had contacted him to inquire about the bedroom count of her residence. Respondent stated that he informed Complainant that the market would consider the room in question as a “multi-purpose” room, as opposed to a bedroom, making the bedroom count 3 instead of 4. This is because the room was smaller than the other bedrooms in the subject dwelling and was currently being used as an office. Additionally, the closet space was smaller than the other bedrooms and would typically be associated with a room that would be used for an office or a den. In addition, Respondent stated that the 4 bedroom comparisons demonstrated that Respondent’s opinion of market value would not change if the subject was stated to have 3 bedrooms or 4 bedrooms in the appraisal report. Whether the room was labeled a bedroom or an office, it would not affect the overall value.

License History: Certified Residential 7/26/2002-Present

Disciplinary History: None.

Reasoning and Recommendation: The reviewer found the appraisal report to be conveyed in an appropriate manner and having sufficient information to enable the client(s) and intended user(s) who receive and rely on the report to understand it properly. Overall, the appraisal report contained factual data that appeared to have been properly analyzed within the boundaries of USPAP and appraisal guidelines. Specific to the complaint, the reviewer found that the complaint indicated that the property has 4 bedrooms versus the 3 bedrooms noted in the report. The response provided by the Respondent indicated that the room was considered a multipurpose room. While the room was being utilized as an office, it could be used for other purposes. The appraisal report made no negative adjustment on the Respondent’s conclusion. The information appeared to be adequate, with the explanations provided. As such, Counsel recommended that this matter be closed with no further action.

Vote: Ms. Johnson made a motion to accept Counsel’s recommendation. Mr. Walton seconded the motion. The motion carried unopposed.

3. 2012025141

This complaint was filed by a consumer/homeowner and alleged that Respondent under-valued a residential property by using inappropriate comparable sales.

Respondent sent a response stating that he did not perform an appraisal on the property that is the subject of this complaint. Respondent stated that he was engaged by a bank to complete an evaluation, and he completed this report, per the bank’s request and specifications.

Respondent was also given the opportunity and did respond to the reviewer’s conclusions after the review was completed. This office has not received a response from Respondent at this time.

This file also contains written correspondence from the bank, stating that it did order an evaluation of the property from Respondent and that the value was less than the selling price of the house and lot. The bank stated that it reviewed the evaluation and felt it was reasonable.

REVEIWER CONCLUSIONS [alleged violations included within brackets]:

- Respondent violated the Ethics Rule on Conduct by “misrepresenting his role when providing valuation services that are outside of appraisal practice.” The appraiser stated he performed an “evaluation” on the subject property; however, on the top right hand corner of the appraisal report, the report clearly states “Summary Appraisal Report”. Based on this, this constitutes an appraisal and, therefore, subject to all requirements of a USPAP complaint report.
- The appraisal report contains no clarification of the intended users. [SR 2-2(b)(i)]
- The appraisal report did not provide any legal description of the subject property. [SR 1-2(e)]
- The appraisal report failed to include a summary of the analysis of the current agreement of sale and any prior sales of the subject property within 3 years prior to the effective date of the appraisal. [SR 1-5(a)]
- The listing history of the subject property did not include a summary of the analysis and facts in the appraisal report. [SR 1-5(a)]
- The subject’s neighborhood section is shown as having stable property values, in-balance demand/supply, and 4-6 months marketing time. Respondent offered no support or analysis for these conclusions. Information contained in the MLS system indicated 23 sales in the area, of which 6 were arms-length and 17 were REO properties. The report contained no summary, statements, or support for the opinions. [SR 1-3(a)]
- The form does not contain any statements or analysis of highest and best use. [SR 1-3(b); SR 2-2(b)(ix)]
- No adjustments or statements were provided for all sales having seller concessions. No support for market conditions was provided. Research indicated 23 home sales in the area between 5/11/2011 and 10/11/2012. 17 of those were REO’s/short sales. No comments were provided to support property values or demand/supply and based on available market data, the lack of adjustments is inconsistent with findings in the market.
- The appraisal report contained no explanation of the exclusion of the cost approach. [SR 2-2(a)(viii)]
- The appraisal report contained no explanation of the exclusion of the cost approach. [SR 2-2(a)(viii)]
- No reconciliation of the 3 approaches was provided. No comments regarding why neither the cost approach or income approach were provided. The appraisal report does not provide the subject’s prior listing history going back one year or the prior sales going back 3 years for comparable listings. [SR 1-5(a)(b); SR 1-6(a)(b); SR 2-2(b)(viii); Ethics Rule Conduct section]

Licensing History: Certified General 12/12/1991-Present

Disciplinary History: None.

Reasoning and Recommendation: The reviewer found the report submitted to be an appraisal report, rather than an evaluation, as suggested by Respondent, and thus, subject to USPAP compliance. The appraisal report lacked support, comments, and discussion for the market conditions. No discussion or adjustments were made regarding seller concessions. No comments were provided regarding the subject's listing history or the prior sales history. No comments or analysis were made regarding the contract agreement. The appraisal report lacked reconciliation of the 3 approaches to value. All violations were a result of the Respondent's misconception regarding what an evaluation is and the Tennessee state law/s about evaluations. As such, Counsel recommended the authorization of a civil penalty in the amount of Five Hundred Dollars (\$500.00) to be satisfied within thirty (30) days of execution of the Consent Order and a fifteen (15) hour Residential Report Writing Course to be satisfied within one-hundred eighty (180) days of execution of the Consent Order. These terms are to be settled by Consent Order or Formal Hearing. The civil penalty should serve as a sufficient economic deterrent while the corrective education should assist the Respondent in becoming a more effective appraiser thereby protecting the interest of the public.

Vote: The Board recommended Counsel send a Letter of Warning, explaining the differences between an evaluation and an appraisal. Ms. Point made a motion to accept the recommendation. Mr. Walton seconded the motion. The motion carried unopposed.

4. 2012026971

This complaint was filed by a consumer and alleged that Respondent performed an appraisal, and the report contained numerous errors which affected the value opinion in the appraisal.

Respondent sent a response stating that this particular assignment was accepted by a client that has given him several appraisals and that he has even received one from the Complainant since this complaint was filed. Respondent stated that he accepted this assignment as the client needed a rush on the appraisal report. Respondent admits that by being in a rush to complete the report, he became sloppy and made mistakes. However, Respondent does not believe that the typos that were made had any reflection on the final value of this property. Respondent stated that he will no longer accept a report in a rush.

Respondent was also given the opportunity to respond to the reviewer's conclusions after the review was completed. This office has not received a response from Respondent at this time.

REVEIWER CONCLUSIONS [alleged violations included within brackets]:

- The appraisal report failed to summarize information sufficient to identify the real estate involved in the appraisal, specifically, the physical characteristics of the property. The year built is indicated in the report as 1982, but public records indicate that it was built in 1976. The addendum of the appraisal states that the subject is "newly constructed," but the property was built in 1976 and is not newly

constructed. The report indicates that the subject has a fireplace; however, in the sales comparison grid, the subject is shown as having no fireplace. [SR 2-2(b)(iii)]

- Respondent rendered appraisal services in a careless or negligent manner by making a series of errors that, although individually might not significantly affect the results of an appraisal, in the aggregate affects the credibility of those results. [SR 1-1(c)]
- The appraisal report failed to develop an exposure time and state that opinion in the report. [SR 1-2(c), line 506; SR 2-2(b), line 766-767]
- The appraisal report failed to summarize the rationale and support for site value. The following statement is provided in support of the site value opinion: "The site value is based on the cost of similar land in the area." No land sales are provided in the report to support the site value conclusion, and there is no summary of support and no reconciliation of land sales to support any site value at all. [SR 2-2(b)(viii)]
- The appraisal report failed to develop a highest and best use opinion for the market value of the subject site. [SR 1-3(b)]
- The appraisal report failed to summarize the rationale and support for highest and best use. [SR 2-2(b)(ix)]
- The appraisal report failed to reconcile the quality and quantity of data for the development of the site value. Three sales are used in the analysis with a wide range of adjusted values (approximately \$157,000-\$173,000). The statement of reconciliation is generic and does not convey the reasoning or support for the final value opinion of \$166,000. [SR 1-6(a)]
- The appraisal report failed to summarize the reconciliation of data. [SR 2-2(b)(viii), lines 789-791.
- Respondent failed to submit a report that contained sufficient information to enable the intended users to understand the report properly. [SR 2-1(b)]
- Respondent failed to state in the certification whether previous services have been performed on the subject within the previous 3 years. [SR 2-3, lines 877-879]
- Respondent failed to maintain information and documentation to support the opinions and conclusions in the work file. [Record Keeping Rule, lines 299-301]

Licensing History:	Registered Trainee	3/18/1992-2/3/1999
	Certified Residential	2/4/1999-Present

Disciplinary History: None

Reasoning and Recommendation: The reviewer found multiple violations of USPAP that would warrant disciplinary action against Respondent in this matter. As such, Counsel recommended the authorization of a civil penalty in the amount of Five Hundred Dollars (\$500.00) to be satisfied within thirty (30) days of execution of the Consent Order and a fifteen (15) hour Site Valuation and Cost Approach Course and a fifteen (15) hour Residential Report Writing Course to be satisfied within one-hundred eighty (180) days of execution of this Consent Order. These terms were to be settled by Consent Order or Formal Hearing. The civil penalty should serve as a sufficient

economic deterrent while the corrective education should assist the Respondent in becoming a more effective appraiser thereby protecting the interest of the public.

Vote: Mr. Green made a motion to accept the recommendation. Ms. Point seconded the motion. The motion carried unopposed.

5. 2011030681 Re-presentation from the January 2013 commission meeting This complaint was filed by a concerned citizen and alleged that Respondent failed to verify comparable sale data, made adjustments inappropriately or negligently, and failed to define the scope of work conducted in the appraisal report. Complainant alleged the errors in the report affected the value opinion in the appraisal for eminent domain purposes of a land acquisition of twelve (12) planned vacant lots.

The Respondent defended his comparable data selections and adjustments applied. He indicated that the value opinion was well supported and no violation of USPAP occurred.

The subject property in this matter consisted of an over thirty-one (31) acres lot that was divided into twelve (12) planned lots as an unrecorded platted subdivision. There was a larger parcel containing fifteen (15) platted lots and an acquisition through Phase 4 of unplotted lots. Respondent did a review on both. The Tennessee Department of Transportation is the condemning agency in this case,, however, TDOT is not the Complainant in this case.

The client in the appraisal assignment was the attorney representing the homeowner. The intended use was to determine market value of the property for use in determining just compensation in an eminent domain matter, thus, the intended user was the attorney for the homeowner for litigation purposes. This appraisal was not for mortgage loan purposes. The appraisal was reported on a TDOT form.

Respondent used a generic market value definition from an Advisory Opinion of USPAP, rather than using the definition identified for TDOT appraisals. Again, TDOT was not the client, which is why the issue seems to be a Scope of Work, Problem Identification violation. The TDOT definition does not take into consideration such things as cash equivalent financing. The definition Respondent used did take this into consideration. If the appraisal definition confines the terms to cash that may be different than if conventional, VA, FHA, or other financing can be considered.

Scope of Work Rule, Problem Identification, USPAP (2010-2011 ed.)

An appraiser must gather and analyze information about those assignment elements that are necessary to properly identify the appraisal, appraisal review, or appraisal consulting problem to be solved.

Comment: In an appraisal assignment, for example, identification of the problem to be solved requires the appraiser to identify the following assignment elements:

- Type and definition of value

Assignment conditions include assumptions, extraordinary assumptions, hypothetical conditions, laws and regulations, jurisdictional exceptions, and other

conditions that affect the scope of work. Laws include constitutions, legislative and court-made law, administrative rules, and ordinances. Regulations include rules or orders, having legal force, issued by an administrative agency.

REVEIWER CONCLUSIONS [alleged violations included within brackets]:

- The reporting option was not clearly presented in the report. [SR 2-2; SR 2-2 Comments: lines 641-648].
- The report does not utilize the proper definition of market value for the type of assignment. [SCOPE OF WORK RULE-Problem Identification; SR 2-2(b)(v)].
- The report does not provide adequate identifying information on the subject lots. [SR 1-2(c); SR 2-2(b)(iii)].
- The sales comparison approach is unsupported and not adequately completed. [SR 1-1(a)(b); 2-2(b)(viii)].
- The reconciliation is not appropriately completed. [SR 1-6(a); SR 2-1(b); SR 2-2(b)(vii)].

Licensing History: Certified General 1/31/1995-Present

Disciplinary History: None

Reasoning and Recommendation: The Commission previously authorized a Consent Order in the amount of Five Hundred Dollars (\$500), along with a thirty (30) hour Valuation of Partial Acquisition C 421 Course. After the Consent Order was sent to Respondent, Respondent requested an informal conference with Executive Director Ms. Avers and Ms. Baird, which took place on February 20, 2012. The issue that kept coming up in the informal conference was the definition of market value and cash equivalency, as addressed above.

The reviewer found that, according to TDOT's guidelines for Appraisers, dated November 2004 the definition is as follows: "Fair market value means the amount of money which a purchaser, willing but under no compulsion to buy, would pay, and which a seller, willing but under no compulsion to sell, would accept, taking into consideration all the legitimate uses to which the property was adaptable and might in reason be applied." Having a complete understanding of the problem to be solved allows the appraiser to identify the scope of work necessary to allow the intended user(s) to properly understand the report and to provide credible results. The use of the definition example presented in Advisory Opinion 22 indicates that the problem identification might be insufficient to allow intended users to rely on the results. Utilizing the proper definition allowed the reader to understand the appraiser knew the scope of the assignment and how to properly value the property. As such, Counsel recommended that this matter be closed with a Letter of Caution pertaining to the definition of market value and cash equivalency issues addressed by the reviewer, in lieu of the previously authorized Consent Order and continuing education requirements which had been earlier rejected by the Respondent.

Discussion:

Upon discussion, the Board examined the possibility of one of its members entering into a conference with the respondent so as to throw some light on the salient points of the

case, and perhaps get an answer as to why the Respondent had rejected the earlier consent order – to which Counsel advised the board that it would make for grounds of recusal if any Board member discussed the case with the Respondent. Aside from which, Counsel also pointed out that the one year statute where cases should be closed within 12 months, would have lapsed by then. The Board also noted that given the earlier refusal, it was only fair that the Respondent be given a chance to re-consider the earlier offer, rather than be forced into a formal hearing at this point. The Board then recommended that the previous Consent Order in the amount of Five Hundred Dollars (\$500.00), along with a thirty (30) hour Valuation of Partial Acquisition C 421 course be presented to the Respondent once more.

Vote: Mr. Walton made a motion to accept the recommendation. Mr. Green seconded the motion. The motion carried unopposed.

6. 2012018871

This complaint was filed by a consumer and alleged bias and/or undisclosed interest in the appraisal of subject property. This property was being appraised for a probate sale of a family estate. Complainant alleged that when he and his brother sold the property to another individual, he went to the court house to obtain a copy of the deed, only to learn that the property was now in possession of the appraisal service company owned by the Respondent. Complainant alleged that this constitutes real estate fraud and that Respondent appraised a parcel of property that he, in turn, benefitted from. The individual who filed the complaint is the brother of the friend who purchased the property.

Respondent stated in his response that he appraised the subject property for an attorney who was handling the estate matter. Approximately seven (7) months later, Respondent stated he was approached by a friend who asked Respondent if he would finance the property, so that the friend could buy it and move his family into the house. Respondent stated that he had known this friend for many years but told him that he had appraised the property, previously, and did not want a conflict of interest. Respondent stated that he was informed by the attorney, his client for the appraisal, that this would not be a conflict. Thus, Respondent financed the property for his friend. Respondent stated that he did not profit from this situation.

Respondent was also given the opportunity to respond to the reviewer's conclusions after the review was completed. This office has not received a response from Respondent at this time.

REVEIWER CONCLUSIONS [alleged violations included within brackets]:

- The appraisal report did not provide an opinion of highest and best use. [SR 1-3(b); SR 2-2(b)(ix)]
- The square footage of comparable sale #1 was not accurately reported. According to the MLS printout, this property contains 1120 square feet, instead of the 1220 square feet reported. No information or comments were found in the work file or report addressing the difference. [SR 1-1(b); SR 2-2(b)(viii)]
- The square footage adjustments for the comparable sales were not consistent. Sale #1 was adjusted \$8.00 per square foot, sale #2 was adjusted \$4.45 per

square foot, and sale #3 was adjusted \$8.00 per square foot. No information or comments were found in the work file or report addressing the difference in square footage adjustments. [SR 1-1(b); SR 2-2(b)(ix)]

- The appraisal report failed to analyze the bath difference between the subject and comparable sale #3. Sale #3 has 2 baths, and the subject has 1 bath. The sales comparison comments indicate that adjustments are made for such items as size, age/condition, garage/carport, fireplace, heating/cooling, porches/decks, land values, "baths", etc. No adjustment was made for the bath difference between the subject and sale #3. There were no comments or explanations found in the work file or the report addressing the bath difference and/or what affect this difference may or may not have. [SR 1-1(b); SR 2-2(b)(viii)]
- Previous transfers of the sales were not reported or analyzed.

Licensing History: Licensed RE Appraiser 10/14/1993-Present

Disciplinary History: None

Reasoning and Recommendation: The reviewer found that there appeared to be a lack of adequate reporting of some information regarding the comparable sales and no adequate reasoning was presented for the size adjustments and the bath difference between the subject and sale #3. The previous transfers of the sales were not properly reported or analyzed. Outside of the discrepancies noted above, the report was found to be conveyed in a manner that contained sufficient information to enable the client(s) and intended user(s) who receive and rely on the report to understand the opinions offered. In addition, there was insufficient evidence to support a finding of alleged bias in this matter. Counsel then recommended that this matter be closed with a Letter of Warning, addressing the noted discrepancies above.

Vote: Mr. Walton made a motion to accept the recommendation. Ms. Johnson seconded the motion. The motion carried unopposed.

7. 2012019811

This complaint was filed by a consumer/homeowner and alleged that Respondent did not get the number of bedrooms correct and the comparisons used had little to do with the subject property.

Respondent stated in his response that the Complainant is misrepresenting in the complaint that no changes were made in the appraisal after he submitted the original complaint. The addendum dated 8/17/2012 and 8/20/2012 clearly states the reasoning explaining Complainant's issues. Either Complainant did not get a copy of the complete appraisal report or neglected to read the revised report. Respondent states that Complainant is upset because the property is not worth what he thinks it is. Respondent stated that he is aware that the tax appraisal and mortgage history shown in the subject's public records are much higher than his value opinion. However, Respondent stands by his opinion of value and contends that his report is both reasonable and adequately supported.

Respondent was also given the opportunity to respond to the reviewer's conclusions after the review was completed. This office has not received a response from Respondent at this time.

REVEIWER CONCLUSIONS [alleged violations included within brackets]:

- Identification of the Subject Property: Respondent did not correctly report the legal description. The legal description given in the CRS/Tax records is Lot 1 Farnsworth. [SR 1-2(e)]
- Neighborhood: The subject's neighborhood section is shown as having stable property values, in-balance demand/supply, and 3-6 months marketing time. The report contains no summary, statements or support for the opinions. Sale #4 and listing #5 were located in a similar historic overlay as sale #3 but had no adjustment for superior location. The Respondent did not discuss the subject being situated next door to a home in the historic overly as compared to sale #2 which was located in a PUD, and sale #3 which was located on the outskirts of subject area's city limits. [SR 1-2(e)(i); SR 1-3(a)]
- Site: The report does not contain an analysis of highest and best use, either in the site section or addendum. [SR 1-3(b); SR 2-2(b)(ix)]
- Description of Improvements: In the rebuttal/value appeal to StreetLinks, the AMC/client of the appraiser, the owner stated the following items were new: metal seamed roof cover, CHA system, water heater and water and sewer lines replaced to the street. In the appraiser's response to the rebuttal, none of the features were added to the Condition of Improvements or addressed in the report. Therefore, the appraisal report did not include an accurate description of the improvements. [SR 1-2(e); SR 2-2(b)(iii)]
- Sales Comparison Approach: No support for market conditions, property values, or demand supply. No support was provided for the location adjustment on sale #3. Sale #4 and listing #5 were also located in the historic overlay but had no adjustment for locational differences. [SR 1-4(a); SR 2-2(b)(viii)]
- Cost Approach: The cost approach was reported to be from Marshall and Swift, but the cost approach data was not consistent with Marshall and Swift current data. The subject property is 112 years. The Respondent used a total economic life of 55 years, stating a remaining economic life of 40 to 45 years. The basement cost is reported at \$5/square foot, and the detached garage is reported at \$10/square foot. This is inconsistent with current M&S cost data. The Respondent did not explain what items were included in the "as is" value of site improvements. The Respondent did not provide a summary explanation of or a summary of comparable land sales for the opinion of site value. [SR 1-4(b); SR 2-2(b)(viii)]
- Income Approach: The income approach requires an explanation for the exclusion and should be included in the "Summary of the Income Approach" and in the "Reconciliation". [SR 1-4(c); SR 2-2(a)(viii)]
- Reconciliation: A reconciliation of the three approaches was not provided. The reconciliation was done of the sales and cost approaches only. [SR 1-6(a)(b); SR 2-2(b)(viii)]

Licensing History:

Certified Residential

10/11/1993

Disciplinary History: (200706512-Dismissed)

Reasoning and Recommendation: The reviewer found multiple violations of USPAP, as noted above, that would warrant disciplinary action against Respondent. Respondent has been a certified residential appraiser for almost twenty (20) years with no prior disciplinary action against him. As such, Counsel recommended the authorization of a civil penalty in the amount of Five Hundred Dollars (\$500.00) to be satisfied within thirty (30) days of execution of the Consent Order a fifteen (15) hour Advanced Residential Applications and Case Studies Course to be satisfied within one-hundred eighty (180) days of execution of the Consent Order. These terms were to be settled by Consent Order or Formal Hearing. The civil penalty should serve as a sufficient economic deterrent while the corrective education should assist the Respondent in becoming a more effective appraiser thereby protecting the interest of the public.

Vote: Mr. Green made a motion to accept the recommendation. Mr. Walton seconded the motion. The motion carried unopposed.

8. 2012021981

This complaint was filed by a consumer/homeowner and alleged that Respondent under-valued a residential property by using misleading comparable sales data.

Respondent stated in her response that she did not feel that lower priced sales were used from outside the area, due to the fact that all sales and listings considered were taken from the subject neighborhood and the surrounding neighborhoods. There were ten (10) sales (including the subject) considered which ranged from \$85,000-\$125,000 having a 20% difference in gross living area and having closed in the past year. All sales used had been on the market for less than six months. Respondent also stated that it is a common occurrence in many areas for the tax value opinion to be higher than the value. Respondent stated that the value of the subject property was not misrepresented by the comparable sales in the original report. Respondent stated she found it hard to believe that the subject appreciated an extreme amount in the 20 days that Complainant had owned the property.

Respondent was also given the opportunity to respond to the reviewer's conclusions after the review was completed. This office has not received a response from Respondent at this time.

REVEIWER CONCLUSIONS [alleged violations included within brackets]:

- Listing/Sales History: No violations were observed in the prior sales history of the subject. The appraiser did show the prior sales history of the subject on page 1 under the "Listing History," but did not do an analysis of the prior transaction/s or place the information in the appropriate area on page 2.
- Neighborhood: The subject's neighborhood section is shown as having stable property values, in-balance demand/supply, and 4-6 months marketing time. The appraiser offered no support or analysis for these conclusions. The report contains no summary, statements, or support for the opinions. [SR 1-3(a)]
- Site: The report does not contain an analysis of highest and best use. [SR 1-3(b); SR 2-2(c)(ix)]

- Sales Comparison Approach: No statements were provided for an analysis of seller concessions or to support the applied adjustments. There was no support for market conditions, property values, or demand/supply. In the use of comparable sales from different subdivisions/locations, the Respondent did not provide support for, or an analysis of, the differences in median sales price/predominant values between the various locations/developments. The appraiser did not provide support for the adjustments for 1 car garages versus 2 car garages. The applied adjustment is well below an amount typically applied in the market. [SR 1-4(a); SR 2-2(b)(viii)]
- Cost Approach: The Respondent did not support the loss in value of the garage versus the adjustment applied in the sales comparison approach. There is a loss in value under Functional Obsolescence that was not discussed. [SR 1-4(c)(g); SR 2-2(b)(iv)]
- Income Approach: The income approach requires an explanation for the exclusion and should be included in the "Summary of the Income Approach" and in the "Reconciliation". [SR 1-4(c); SR 2-2(a)(viii)]
- Reconciliation: A reconciliation of the three approaches was not provided. It only addressed the sales and income approach and did not include statements of the cost approach. The appraisal did not provide the subject's prior sales history in the appropriate area of the appraisal form. [SR 1-5(a)(b); SR 1-6(a)(b); SR 2-2(b)(viii)]

Licensing History:	Registered Trainee	1/19/1996-8/16/1998
	Licensed RE Appraiser	8/17/1998-3/10/2003
	Certified Residential	3/11/2003-Present

Disciplinary History: None.

Reasoning and Recommendation: The reviewer found that the appraisal lacked support, comments, and/or discussion for the market conditions. There was no discussion regarding seller concessions adjustments. There was no discussion of the subject's prior sales history under the "Analysis of prior sale or transfer history". The Respondent did not support the garage adjustment or the loss in value for the difference between the depreciated value and the cost less the contributory value shown in the cost approach. The appraisal report did not reconcile all three approaches to value, rather only the sales comparison approach and the income approach. Respondent had been a certified residential appraiser for more than ten (10) years with no prior disciplinary action against her. As such, Counsel recommended the authorization of a civil penalty in the amount of Five Hundred Dollars (\$500.00) to be satisfied within thirty (30) days of execution of the Consent Order a fifteen (15) hour Residential Report Writing Course to be satisfied within one-hundred eighty (180) days of execution of the Consent Order. These terms are to be settled by Consent Order or Formal Hearing. The civil penalty should serve as a sufficient economic deterrent while the corrective education should assist the Respondent in becoming a more effective appraiser thereby protecting the interest of the public.

Discussion:

Upon discussion the Board authorized a **Letter of Caution**, regarding the noted USPAP violations.

Vote: Mr. Green made a motion to accept the recommendation. Ms. Point seconded the motion. The motion carried unopposed.

9. 2012011051, 2012023191

These complaints were filed, alleging that Respondent valued two separate residential properties incorrectly, by using inappropriate comparable sales in the appraisals.

On March 29, 2013, the Respondent's real estate appraiser license was suspended for 30 days and until costs were paid as a result of a formal hearing, involving seven (7) appraisal reports prepared by Respondent.

In these two (2) newer complaint files involving 2 appraisal reports prepared by Respondent in December, 2011 and May, 2012, respectively, the Respondent appeared, according to the reviewer, to have committed several of the same violations as set forth in prior formal hearings, such as violations of USPAP in the subject's listing and sales history, description of improvements, and sales comparison and cost approach sections of these two newer reports. Respondent also failed to explain the exclusion of the income approach in these two reports as required, and did not submit a work file in one of these complaints. Respondent prepared these two reports for completely different clients than those included in the prior litigated formal proceeding.

Reasoning and Recommendation: Both Litigation and Commission counsel recommend that the Commission approve a Consent Order imposing the same (concurrent) 30 day suspension in these two newer complaints, which is being currently served by Respondent in the formal proceeding recently adjudicated, with no further assessment of costs, with the condition that as a consequence of the Commission entering into such a consent order, Respondent expressly agrees in writing to waive his rights to appeal to Chancery Court the Final Order filed in the previously related matters tried before the Commission.

Even though the commission considers the two newer complaints to be meritorious, and even though there were some different and additional alleged violations of USPAP noted by the reviewer, the commission believed that before imposing additional discipline, the Respondent should be given time to complete the additional corrective education required by the Final Order (such education requirements to be completed within 1 year of March 26, 2013).

However, if Respondent decided to contest and seek to set aside the March, 2013 Final Order recently entered by appealing to Davidson County Chancery Court, there would be no reason to accept this proposed Consent Order on these two newer complaint files, since there will be further expense of time and effort and funds in order to assist the Attorney General's office in defending this matter in Chancery Court. Counsel believed that the Respondent would accept this proposal. It was decided that if Respondent further rejected this proposed Consent Order, both of the newer complaints would then be litigated in a formal proceeding.

Vote: Mr. Walton made a motion to accept the recommendation. Ms. Johnson seconded the motion. The motion carried unopposed.

10. 2013005301 There was no reviewer in this matter

This complaint was filed by the administrative staff of the Tennessee Real Estate Appraiser Commission, due to cancellation notice of Respondent's surety bond, effective February 12, 2013.

After such complaint was filed, Respondent Appraisal Management Company responded to the complaint by sending in a new surety bond, with an effective date of March 21, 2013. There is a gap in effective dates between the expiration of the original bond and the effective date of the new bond of approximately thirty-seven (37) days.

Licensing History: Licensed AMC 10/8/2012-10/7/2014

Disciplinary History: None

Reasoning and Recommendation: Taking note that Tenn. Code Ann. 62-39-408(b) states that each applicant for registration shall post with the commission and maintain on renewal a surety bond in the amount of twenty thousand dollars (\$20,000). The details of the bond shall be prescribed by rule and regulation of the commission, however, the bond may not be used to assist appraisers in collection efforts of credit extended by the appraiser.

Respondent did submit a new bond at the request of the administrative staff - however, there was a lapse of approximately thirty-seven (37) days between the expiration of the old bond and the effective date of the new bond. Thus, Respondent failed to maintain a valid surety bond for the duration of its registration. As such, Counsel recommended the authorization of a civil penalty in the amount of Five Hundred Dollars (\$500.00) to be satisfied within thirty (30) days of the execution of the Consent Order. These terms were to be settled by Consent Order or Formal Hearing.

Vote: Mr. Green made a motion to accept the recommendation. Ms. Johnson seconded the motion. The motion carried unopposed.

Being no further business, the meeting was adjourned at 2:05 p.m. on April 8, 2013.